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SENATE

{ REPORT
106-403

UPPER COLORADO RIVER AND SAN JUAN RIVER BASINS

SEPTEMBER 7, 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2239]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2239) to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River basins, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 15, strike lines 10 through 15, and insert the following: “No provision of this Act nor any action taken pursuant thereto or in furtherance thereof shall constitute a new or supplemental benefit under the Act of June 17, 1902, (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory thereof (43 U.S.C. 371 et seq.)”.

PURPOSE OF THE MEASURE

The purpose of S. 2239 is to authorize funding for the Bureau of Reclamation to continue the implementation of the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River basins in order to accomplish the objectives of the programs within an established timeframe.

BACKGROUND AND NEED

Upper Colorado River Basin

The Upper Colorado River basin, which is composed of the Colorado River and its tributaries upstream of Lake Powell, is home to 14 native fish species, four of which are now endangered. These four fish—the Colorado pikeminnow, razorback sucker, bonytail

and humpback chub—evolved in the Colorado River basin and exist nowhere else on earth.

In 1988, a coalition of agencies and organizations came together to recover endangered Colorado River basin fish and provide for future water development for agricultural, hydroelectric, and municipal uses. Called the Upper Colorado River Endangered Fish Recovery Program, this effort involves federal, state, and private organizations and agencies in Colorado, Utah, and Wyoming. The program complies with all applicable laws, including the Federal Endangered Species Act, State water law, river law and interstate water compacts. Recovery strategies include conducting research, improving river habitat, providing adequate stream flows, managing non-native fish, and raising endangered fish in hatcheries for stocking.

Endangered Colorado pikeminnow, razorback suckers, bonytail and humpback chub will be considered recovered when there are self-sustaining populations of each fish species and when there is natural habitat to support them.

The following organizations and agencies are represented on the Upper Colorado River Endangered Fish Recovery Program: U.S. Fish and Wildlife Service, U.S. Bureau of Reclamation, Western Area Power Administration, State of Colorado, State of Utah, State of Wyoming, The Nature Conservancy, Environmental Defense Fund, Colorado Water Congress, Utah Water Users Association, Wyoming Water Development Association, and Colorado River Energy Distributors Association.

Annual program expenditures have ranged from about \$2 million to \$13 million. On an average basis, Recovery Program participants have contributed the following amounts each year:

Where the money goes	Cost	Percent of total cost
Upper Basin Water Users	\$91,400	.9
State of Wyoming	30,200	.3
Bureau of Reclamation (Capital Funds)	5,914,200	58.7
Bureau of Reclamation (Regular Funds)	1,956,300	19.4
U.S. Fish and Wildlife Services	1,124,000	11.2
State of Colorado	858,200	8.5
State of Utah	95,200	1

Costs include habitat development, habitat management, in-stream flow acquisition, non-native fish management, hatchery construction and operation, endangered fish stocking, research, public information and education and program management. On an average basis, Recovery Program funds have been distributed as follows:

Where the money goes	Cost	Percent of total cost
Non-native fish management	\$204,300	2.0
Information and Education	189,600	1.9
In-stream flow identification and protection	3,345,700	33.2
Habitat restoration (wetlands, fish passage)	2,605,800	25.9
Endangered fish stocking	2,071,800	20.6
Program management	1,266,300	12.6
Research, monitoring and data management	386,000	3.8

Recovery efforts include:

Research—Researchers from various universities and State and Federal agencies independently began gathering information on these fish in the 1960's. In 1979, the U.S. Fish and Wildlife Service's Colorado River Fisheries Project began coordinating research on endangered fish. These early research projects provided background information necessary to guide current research studies. Since 1988, all research and capital construction projects in the Upper Colorado River Basin have been coordinated by the Upper Colorado River Endangered Fish Recovery Program.

Through a coordinated, multi-State effort, biologists now collect data used to monitor sizes of populations of endangered and non-native fish and recommended stream flows that are best for endangered fish, their food supply and riverside habitat. Data from all studies are being compiled in a centralized database.

Providing adequate stream flows—This aspect of endangered fish recovery involves acquiring adequate stream flows and altering operations of Federal dams to re-create more natural flow patterns. This strategy mimics natural stream flows, providing high flows during natural spring runoff, and lower, more stable flows the rest of the year. Large volumes of water carve out the riverside nooks and crannies, or "backwaters and side channels," that endangered fish need to feed, grow and survive.

Managing non-native fish species—The Upper Colorado River Endangered Fish Recovery program is working to recover endangered fish while also working to minimize the impact on non-native sport fishing. In general, stocking non-native fish species in the upper Colorado River basin has been confined to areas where there is little potential conflict with endangered fish. But trout tend to live in different parts of the river, and are not considered competitors with endangered fish. Trout are cold-water fish that prefer temperatures 10 to 15 degrees cooler than those in downstream sections of the river where endangered fish are found.

In the fall of 1996, Federal and State wildlife agencies in Colorado, Utah and Wyoming finalized an agreement on stocking of non-native sort fish. The agreement specified the circumstances under which certain species of non-native fish can be stocked without harming endangered fish, specifying when non-native fish species can be routinely stocked, when stocking is prohibited, and when case-by-case reviews are required. These guidelines allow widespread stocking of trout and stocking of a variety of warm-weather fish species in seven Western Slope reservoirs totaling more than 10,000 surface acres.

Hatcheries and stocking—Hatchery facilities and ponds for raising endangered fish now are available in five different sites in Utah and Colorado. Each of the facilities was established to meet specific objectives necessary to recover endangered Colorado River fish.

Before this Recovery Program existed, thousands of endangered Colorado River fish were stocked in the upper and lower Colorado River basins, but most did not survive. Biologists believe that the lack of sufficient wetland areas and slow-moving "backwaters" decreased the fishes' ability to survive and reproduce. Also, many of the hatchery fish were offspring of a small number of adult parents and, as such, had very limited genetic diversity. In addition, young endangered fish may become "imprinted" to a specific site in the

river and may spawn in that site only. Unless properly imprinted, the hatchery-raised fish may not have known where to go to spawn in the wild.

Improving the river habitat—One strategy being used to improve river habitat is to make river-side flood plain property accessible to endangered fish. In some cases, this involves breaking down or removing dikes along the river to allow the fish to swim into the wetland. In situations where no dikes exist, the approach may be to protect the property from development, ensuring it will continue to be available to the fish.

River habitat also is being improved by building fish passageways and ladders around dams and other in-stream barriers, enabling endangered fish to migrate upstream and down. Fish ladders are being used successfully in several areas of the United States, including for salmon in the Pacific Northwest's Columbia River.

San Juan River Basin

The San Juan River is a major tributary of the Colorado River Basin. In 1922, the seven basin States of Utah, Colorado, Wyoming, New Mexico, Arizona, Nevada, and California signed a compact dividing the Colorado River between the Upper and Lower Colorado River basins. In 1948, the Upper Basin States (Wyoming, Colorado, Utah, and New Mexico), together with Arizona, signed an agreement apportioning the upper basin share between the States. Arizona was apportioned 50,000 acre-feet in that agreement. Each of the States and the Bureau of Reclamation under the authority of the Colorado River Storage Project Act (CRSP), initiated the development of the waters of the Upper Colorado River basin. The passage of the CRSP Act allowed for the construction of many large mainstem impoundments on the Colorado River and various tributaries including Navajo Dam on the San Juan, Flaming Gorge on the Green River, and the Aspinall Unit on the Gunnison River.

While the construction of these impoundments was essential for the development of water storage and flood control and to allow the Upper Basin states to develop their water resources, their construction and operation altered natural river ecosystems and, thereby, the native floral and faunal communities of the Colorado River. As a result, natural riverine habitats were altered and migration routes were blocked.

The purpose of the San Juan River Basin Recovery Implementation Program is to protect and recover endangered fishes in the San Juan River basins while water development proceeds in compliance with all applicable Federal and State laws. Endangered species include the pikeminnow and razorback sucker. It is anticipated that actions taken under this Program will also provide benefits to other native fishes in the Basin and prevent them from becoming endangered in the future.

The specific goals of the Program are: (1) To conserve populations of the pikeminnow and razorback sucker in the Basin consistent with the recovery goals established under the Endangered Species Act; and (2) to proceed with water development in the Basin in compliance with Federal and State laws, interstate compacts, Supreme Court decrees, and Federal trust responsibilities to the Southern Utes, Ute Mountain Utes, Jicarillas, and the Navajos.

Specific species recovery goals will be developed for the San Juan River basin using information developed as part of this Program. Established goals will reflect the need to protect endangered fishes in the San Juan River and will recognize the value, contribution, and roles of these populations in recovery of the species throughout their ranges.

The Program was developed as a cooperative effort among agencies of the Department of the Interior, tribes, states and water development interests and includes the following: U.S. Bureau of Reclamation, U.S. Bureau of Indian Affairs, U.S. Fish and Wildlife Service, U.S. Bureau of Land Management, Ute Mountain Ute Indian Tribe, Southern Ute Indian Tribe, Jicarilla Apache Indian Tribe, Navajo Nation, State of New Mexico, State of Colorado, and State of Utah.

LEGISLATIVE HISTORY

S. 2339 was introduced by Senators Allard, Bennett, Bingaman, Campbell, and Hatch on March 9, 2000. The Subcommittee on Water and Power held a hearing on the bill on April 25, 2000. At the business meeting on June 7, 2000, the Committee on Energy and Natural Resources ordered S. 2239, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on June 7, 2000 by a unanimous voice vote with a quorum present, recommends that the Senate pass S. 2239, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 2239, the Committee adopted an amendment to section 4 that ensures that any actions taken in furtherance of this program do not result in the application of Reclamation law if characterized as a "new or supplemental" benefit. In particular, this provision will ensure that exempt districts shall not become subject to the provisions of the Reclamation Reform Act based on their participation in the recovery program or due to the overall improvements in the conditions of the Basin.

SECTION-BY-SECTION

Section 1 describes the purposes of the Act.

Section 2 defines key terms used in the Act.

Section 3(a) provides authorization of \$46 million in appropriated funds to the Secretary of the Interior (acting through the Commissioner of Reclamation) to be utilized for capital projects as defined in the Act. Further, the subsection provides that such funds are a nonreimbursable Federal expenditure. This authorization, as well as any other authority for the implementation of capital projects terminates for the Upper Colorado River Basin projects on September 30, 2005, and on September 30, 2007 for the capital projects in the San Juan River Basin.

Subsection 3(b) limits the total costs (Federal and non-Federal) of the capital projects to \$100 million; \$82 million for the Colorado projects and \$18 million for the San Juan projects. Beginning in

the fiscal year following enactment, the capital project costs shall be adjusted for inflation by the Secretary based on an appropriate economic index.

Subsection 3(c) authorizes the Secretary to accept contributed funds not to exceed \$17 million from the States of Colorado, Wyoming, Utah and New Mexico as outlined in separate agreements, and authorizes the Secretary to expend such contributed funds as if appropriated for that purpose.

The Secretary of Energy, acting through the Western Area Power Administration (WAPA), is authorized to use power revenues not to exceed \$17 million for capital projects. The power revenues are treated as a non-Federal contribution, are collected by WAPA pursuant to the Colorado River Storage Project (CRSP) Act of April 11, 1956, and are treated as reimbursable costs assigned to power for repayment under section 5 of the CRSP Act. Subsection (c)(2)(D) provides that the power revenue funding and State funding shall match on a rolling two-year basis. Power revenue funding may come from a loan provided to WAPA from the Colorado Water Conservation Board (CWCB) Construction Fund established pursuant to Colorado law.

Subsection 3(d) details the source of “base funding”, or non-capital funding which is utilized for the operation and maintenance of the capital projects, implementation of recovery actions other than capital projects (such as land, water or facility lease, reintroduction of endangered fish stocks, or the removal or translation of non-native fishes). Base funding also is provided pursuant to the Cooperative Agreements (as described in section 2 of the bill). The Secretary is authorized to utilize power revenues pursuant to the CRSP Act of 1956, which power revenues are non-reimbursable and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 the CRSP Act. Base funding shall not exceed \$4 million per year for the Upper Colorado River Basin program and \$2 million per year for the San Juan River Basin program, each amount having been adjusted for inflation annually. Authorization for the use of power revenues terminates on September 30, 2011, except that ongoing funding shall be provided for the limited purpose of operation and maintenance of the capital projects and monitoring. WAPA and Reclamation are to maintain sufficient revenues in the Upper Colorado River Basin Fund to meet the base funding obligations contained in this Act. If the agencies determine that there are insufficient revenues in that Fund to meet such obligations for a three-year period, then the agencies are required to seek Federal appropriations to meet the base funding obligations.

In relation to the intended termination date for base funding, there is also required a report to Congress not later than September 30, 2008, on the use of power revenues for base funding, as well as a recommendation regarding ongoing use of power revenues after fiscal year 2011.

Nothing in this Act affects any agreement regarding base funding and depletion charges for the Recovery Implementation Program.

Subsection (e) authorizes the Secretary of the Interior to enter into agreements with Federal and non-Federal entities, to acquire

and transfer interests in land, water and facilities, and to accept or give grants to carry out the provisions of this Act.

Subsection (f) requires that nothing in this Act restricts the Interior agencies (Reclamation and the Bureau of Indian Affairs) from meeting their Indian trust responsibilities.

Subsection (g) terminates all spending authorities on the expiration dates of the 1988 and 1992 Cooperative Agreements among the states and federal agencies, unless at least one year prior to such expiration dates, those Cooperative Agreements are extended to conform with the Act.

Section 4 provides that any facilities, land or water rights acquired or constructed pursuant to the Act as part of the Recovery Implementation Project are not subject to the provisions of the Reclamation Act or any associated acts thereto, such as the Reclamation Reform Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 28, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2239, a bill to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River basins.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Applebaum.

Sincerely,

STEVEN M. LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

S. 2239—A bill to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River basins

Summary: S. 2239 would authorize the Secretary of the Interior to participate in fish recovery programs in the Upper Colorado River and the San Juan River basins. For planning, construction, and other capital projects, the bill would authorize the appropriation of \$46 million to the Bureau of Reclamation. The bill also would allow the use of up to \$17 million from states participating in these programs. It would authorize the Western Area Power Administration (WAPA) to borrow an additional \$17 million from the state of Colorado to help fund these projects, and it would authorize the use of about \$6 million annually from certain proceeds from WAPA's electricity sales to fund specified operations and maintenance activities. Finally, the bill would authorize WAPA to repay

the loan from Colorado by increasing electricity sales rates over the 2012–2057 period.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 2239 would cost \$40 million over the 2001–2005 period. In addition, CBO estimates that enacting S. 2239 would increase direct spending by \$44 million over the 2001–2005 period and \$78 million over the 2001–2010 period. (Some of those costs would be offset over the 2012–2057 period by increases in the rates WAPA charges to electricity customers.) Because enacting S. 2239 would affect direct spending, pay-as-you-go procedures would apply.

S. 2239 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Bill (UMRA). State and local governments would probably incur some costs as a result of the bill's enactment, but these costs would be voluntary.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2239 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	10	10	10	10	6
Estimated outlays	8	8	8	8	8
CHANGES IN DIRECT SPENDING					
Estimated budget authority	23	6	6	6	7
Estimated outlays	8	8	10	9	9

Basis of estimate: For this estimate, CBO assumes S. 2239 would be enacted by early in fiscal year 2001. Outlay estimates are based on information from the Bureau of Reclamation and historical spending patterns for similar programs. In addition to the \$46 million that the bill would authorize to be appropriated, the legislation would authorize three other sources of funds for fish recovery programs: up to \$17 million in contributions from states that are participating in this fish recovery program, up to \$17 million in a loan from the state of Colorado (that is subject to repayment), and about \$6 million annually from certain receipts from WAPA's electricity sales.

CBO estimates that the receipt and spending of funds contributed by participating states would have no significant net effect on the budget. But over the 2001–2005 period, CBO estimates that funding from the loan and spending some of the receipts from WAPA's electricity sales would increase direct spending by \$44 million. Direct spending would increase by \$78 million over the 2001–2010 period. Over the 2012–2057 period, some of these costs would be offset as WAPA would increase its electricity rates to repay the loan from Colorado.

Contributions from States

CBO expects that the participating states (Colorado, Wyoming, Utah, and New Mexico) will contribute the full \$17 million that would be authorized by the bill for the construction of capital

projects for fish recovery. We expect that states would contribute funds at approximately the same rate that they are needed to complete capital projects, so that net spending and receipts from this provision would not be significant in any year.

Borrowing from Colorado

S. 2239 would authorize WAPA to borrow and spend up to \$17 million from the Colorado Water Conservation Board Construction Fund (a fund of the state government). We expect these funds would be borrowed in 2001 and that outlays would total \$13 million over the 2001–2005 period, with the remaining \$4 million spent over fiscal years 2006 and 2007. Under the provisions of the bill, the \$17-million loan would be repaid to the state of Colorado, with interest, starting in 2012. (The receipt of these funds and the subsequent loan principal repayment to Colorado would be treated in the budget as a means of financing, and would not affect spending.) The bill would direct WAPA to raise electricity rates for certain customers by a sufficient amount to repay this loan over the 2012–2057 period. Therefore, this provision would cause a small net annual change in direct spending beginning in 2012 as funds are collected and interest payments are made to repay this loan over a 45-year period.

Spending certain WAPA electricity receipts

S. 2239 would authorize the Secretary of the Interior to spend about \$6 million a year from the proceeds of certain WAPA electricity sales to pay for the operations and maintenance costs, and other noncapital costs of endangered fish recovery programs in the Upper Colorado and San Juan River basins. The bill would authorize the Secretary to adjust such spending for increases in inflation, and to continue this spending until 2011. After this date, spending would be authorized to continue, but only for operations and maintenance costs. CBO estimates this provision would increase direct spending by \$31 million over the 2001–2005 period and by \$61 million over the 2001–2010 period. Under the bill, this spending would not be offset by increases in the price of electricity sold by WAPA.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	8	8	10	9	9	8	8	6	6	6
Changes in receipts	(1) ¹	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

¹ Not applicable.

Intergovernmental and private-sector impact: S. 2239 contains no intergovernmental or private-sector mandates as defined in UMRA. Under the terms of this bill, part of the costs of the authorized capital projects would be paid by state governments and by water and

power users, some of which are public entities. These costs would be voluntary.

Previous cost estimate: On July 28, 2000, CBO transmitted a cost estimate for H.R. 2348, an act to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River basins, as passed by the House of Representatives on July 25, 2000. The two versions of the legislation are very similar and the estimated costs are the same.

Estimate prepared by: Federal Costs: Rachel Applebaum. Impact on State, Local, and Tribal Governments: Majorie Miller. Impact on the Private Sector: Natalie Tawil.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2239. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2239, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 8, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 2239. These reports had not been received at the time the report on S. 2239 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Commissioner of the Bureau of Reclamation at the Subcommittee hearing follows:

TESTIMONY OF ELUID L. MARTINEZ, COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

INTRODUCTION

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear today to discuss the Administration's views on S. 2239, a bill to authorize the Bureau of Reclamation to provide cost sharing for the Upper Colorado River and San Juan River Basins Endangered Fish Recovery Implementation Programs. The Administration supports this legislation, with amendments to address concerns discussed below, and would like to thank Senator Allard for introducing the bill.

BACKGROUND

The States administer the development and use of water resources within their boundaries in accordance with State law, interstate compacts and international treaty, and are responsible for management of fish and wildlife resources within their boundaries. The Bureau of Reclamation operates Federal reservoirs on the Upper Colorado River and San Juan River Basins which regulate water deliveries under interstate compacts and ensure a reliable supply of water for beneficial use, incidental to which is the production of hydropower. The U.S. Fish and Wildlife Service is responsible for administering the Endangered Species Act (ESA). The involved Tribes have jurisdiction over water, land and wildlife on their respective tribal properties. The complexities of managing water and meeting the needs of endangered species led the parties to develop recovery programs for each river basin.

The Upper Colorado River Endangered Fish Recovery Implementation Program, established in 1988, is a cooperative effort involving the states of Colorado, Utah and Wyoming, environmental representatives, water and power user organizations, the Colorado River Energy Distributor Association, the Western Area Power Administration, the Bureau of Reclamation and the U.S. Fish and Wildlife Service. The Recovery Implementation Program's goal is to recover four species of fish, listed as endangered under the ESA, while enabling the states to continue to develop water in accordance with their Colorado River compact entitlements. The four species are Colorado pikeminnow, razorback sucker, humpback chub and bonytail.

A similar program was initiated in 1991 in the San Juan River Basin. Program participants are the States of Colorado and New Mexico, the Bureau of Reclamation, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs and the Southern Ute, Ute Mountain Ute, Jicarilla Apache, and Navajo tribes. In addition to recovering two species of endangered fish—the Colorado pikeminnow and razorback sucker—the San Juan program meets the need to proceed with water development in the Basin in compliance with Federal and State laws, interstate compacts, Supreme Court decrees and Federal trust responsibilities to the Tribes.

S. 2239

The legislation would authorize funding for capital construction, operations and maintenance, and additional funding to implement other aspects of the Recovery Programs, which include building fish ladders, acquiring water, constructing hatchery facilities, and acquiring and restoring floodplain habitats used by endangered fish. It sets out the cost sharing relationships among the program participants for the completion of the recovery actions. The partners recognize that needed capital construction funds for the Programs through fiscal year 2007 may be as much

as \$100 million. S. 2239 would apportion responsibility for the funding of capital projects between the Federal and non-federal partners. It would authorize \$46 million of Federal funds to the Bureau of Reclamation. The Department's ability to provide funding is subject to existing budget constraints. The remaining \$54 million would be generated from the following non-federal sources: State contributions of cash, land, and water interests, or in-kind services not to exceed \$17 million; contributions from power revenues up to \$17 million, which are defined as reimbursable by power customers; and an additional \$20 million dedicated from the flows from Flaming Gorge Dam in Utah and the Colorado Water Conservation District's Wolford Mountain Reservoir. S. 2239 recognizes the agreement brokered between the Colorado Water Conservation Board, the Western Area Power Administration, the Bureau of Reclamation, and the State of Colorado to allow the Board to provide a low-interest loan to the power users to minimize any rate increase resulting from capital expenditures. The legislation would differ from current practice where 100 percent of the costs of capital projects for the Programs are being provided by Federal appropriations.

The legislation would allow the Western Area Power Administration and the Bureau of Reclamation, through fiscal year 2011, to use power revenues up to \$6 million per year for base funding to operate both programs including operation and maintenance of capital projects, research, monitoring, information and education and program management. After 2011, power revenues may only be used to operate and maintain the capital projects and for monitoring, unless Congress authorizes additional funding.

The Administration has concerns regarding repayment of Federal debt and PAYGO impacts. The Administration has policy concerns with allowing non-Federal interests to write off debt to the Treasury so as to redirect repayment funds to new investments. Additionally, technical changes are needed to clarify that power revenues provided on a reimbursable basis to fund capital project activities will be offset through rate changes resulting in increases over existing power revenues as necessary to avoid PAYGO impacts. We would like to work with the Committee to address these concerns.

FISH ARE RECOVERING

Both Recovery Implementation Programs have made significant progress toward recovering the endangered fishes. In the past 12 years, the Upper Colorado River Recovery Implementation Program has recorded population increases for the Colorado pikeminnow in both the Green and Colorado rivers. The number of adults being caught in the Green River has tripled, while adult catches in the Colorado River have increased nearly eightfold. The humpback chub populations in the Blackrocks and Westwater Canyon areas of the Colorado River have gone from declining to stable populations.

Since the beginning of the Programs, more than 207 favorable biological opinions have been issued under section 7 of the ESA, allowing more than 500 projects resulting in a total water depletion of nearly 600,000 acre-feet to go forward. Another biological opinion, nearing completion, will address more than one million acre-feet of water depletions. The unprecedented partnerships under the Programs have been instrumental in enabling water development to continue while providing for the long-term survival and recovery of the endangered fish. These partnerships have also enabled the Federal agencies to streamline the section 7 consultation process and provide timely responses to water users.

Because of the success with Colorado pikeminnow and humpback chub, the Upper Colorado River Recovery Implementation Program is now emphasizing razorback sucker and bonytail recovery actions. This year, more than 60,000 razorback suckers were stocked. For the first time in the Green River, fish stocked from previous years are appearing in the spawning areas in reproductive condition. In addition, new young adult fish are being captured, indicating that successful reproduction in the wild is occurring.

In 1999, 10,000 bonytails were stocked at each of two sites. Another 70,000 bonytails are being reared for release at a third site in the spring of 2000. Previously stocked fish are being captured in the wild and are demonstrating strong growth.

Other Recovery Implementation Program accomplishments are being made in flow enhancement and habitat development. Both Bureau of Reclamation and private dams on the Colorado River are being operated to provide high spring releases for fish without impacting the ability to supply irrigation, municipal, and industrial water. The Program continues to successfully restore the floodplain in areas that do not negatively impact landowners. This floodplain habitat provides nursery areas for young fish during spring snowmelt runoff. To date, the Program has removed dikes and levees along the river to restore natural flooding of more than 2,000 acres. Acquisition of an additional 1,600 acres of flood easements to restore habitat is in progress.

The Upper Colorado River Recovery Program has identified several priorities for the immediate future. Topping the list is construction of two additional fish passages on the Colorado River which will open another 50 miles of historic habitat for the fish. Another priority is to improve efficiency of operations on the Government Highline Canal—a canal that provides water to farmers in Colorado. This project will enable water users to reduce diversions by more than 28,000 acre-feet per year, making water available to help recover the endangered fish.

The San Juan River Recovery Implementation Program is also making significant progress toward recovering the razorback sucker and Colorado pikeminnow. Following

nearly seven years of research and modeling, the Program adopted flow recommendations that provide water for other uses while also recovering the fish. This program has been a highly successful effort of the States, the Tribes, Federal agencies and water development interests. It has combined good scientific research with practical applications, resulting in successes for water development interests and endangered species.

The program provides section 7 compliance for 700,000 acre-feet per year of existing water depletions and for 121,000 acre-feet per year of future depletions for the Navajo Indian Irrigation Project. It supports tribal water development in the San Juan Basin, including 57,000 acre-feet of depletions for the Animas-La Plata Project. It will also provide future ESA compliance for the Department of the Interior to meet its trust responsibilities to the tribes.

We want to emphasize that much of the potential water development in the San Juan River Basin and in the Duchesne River Basin, a sub-basin of the Green River in the Upper Colorado River Basin, is for the benefit of Indian Tribes. Most of the Federally designated critical habitat for the endangered fish species in the San Juan River Basin is on Indian trust lands, and 2½ miles of critical habitat on the Duchesne River is on Indian Trust land. The Department of the Interior strongly supports the Recovery Implementation Programs' continued activities in accordance with the Federal Government's Indian trust responsibilities.

COST-SHARE PARTNERSHIP

S. 2239 affirms the Federal government's commitment to continued implementation of the Recovery Programs as possible under current budget constraints and acknowledges the critical role of the states and power users in accomplishing species conservation while meeting the future needs of water users. With the authorization of base funding, this legislation also affirms the commitment to provide for the operation and maintenance of capital improvements and conduct important monitoring to ensure that recovery accomplishments are achieved and sustained into the future.

The States of Colorado, New Mexico, Utah and Wyoming support the cost share and have apportioned the costs among themselves. Colorado, Utah, and Wyoming have successfully secured the funding needed for their portion of the cost share through State budgeting processes. The Recovery Programs also receive significant benefit from local organizations, such as water from the Woford Mountain Project in Colorado.

The Department of the Interior believes that long-term funding support of the Upper Colorado River and San Juan Recovery Implementation Programs is in the best interest of all citizens. A significant financial investment of both public and private funds has been made to conduct research, construct and manage facilities, and implement

other measures to recover the endangered fish, as required by the ESA. These model programs have demonstrated success in recovering the fish while enabling water and power development and recreational water use to continue. The Programs are fully supported by private water and power users, environmental organizations and Federal, State and local agencies.

CONCLUSION

It is critical to the continued recovery of the four species of endangered fish and to future successful water management for multiple uses, that funding of both Programs continue at this juncture. S. 2239 provides a unique opportunity to sustain partnership that combines Federal and non-federal funding in an effort to recover endangered species while recognizing and meeting the water needs of local communities. The Department of the Interior would like to thank Senator Allard for sponsoring this legislation, and with the addition of any needed amendments, we urge passage of S. 2239. We believe that the programs addressed in this legislation can serve as a model to other regions of the country for how partners can work collaboratively to achieve water development and species conservation goals.

That concludes my remarks, and I would be happy to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2239, as ordered reported.

